

Vernon, Portrice

From: Maguire, Andrew
Sent: Wednesday, March 23, 2016 11:16 AM
To: Vernon, Portrice
Subject: FW: Tocon Site in Goshen, IN
Attachments: PSCOTT_20160322_1605391706_0000.pdf; PSCOTT_20160322_16071043020_0000.pdf

Andy Maguire
U.S. EPA - Region 5
312-353-8782

From: Michael, Rodney [mailto:rmichael@taftlaw.com]
Sent: Tuesday, March 22, 2016 3:30 PM
To: Maguire, Andrew <maguire.andrew@epa.gov>
Cc: Hershberger, Becky (beckyhershberger@goshencity.com) <beckyhershberger@goshencity.com>
Subject: Tocon Site in Goshen, IN

Hi Andy,

In reviewing materials produced during litigation between Goshen Community School Corp., and Tocon, I found the attached memo that I thought you would want to see. The memo indicates that there are likely other toxic materials such as lead, mercury and PCBs in the debris piles. I wanted to make you aware of this in case your contractors need to take additional precautions when removing the debris.

By way of background, the memo was attached to a group of materials that included an email from Jeff Werwie, Johnson Controls Inc.'s ("JCI") Environmental Director, to Bruce Stahly, Superintendent of Goshen Schools and his attorney Jim Woodsmall. JCI is contractually obligated to remove the asbestos and other hazardous materials at the site pursuant to an Environmental Remediation and Indemnification Agreement with Tocon. (See attached Environmental Remediation and Indemnification Agreement page 1 at paragraph 3(a) and definitions of "Environmental Conditions" and "Environmental Reports" page G-10) In connection with those obligations, JCI apparently sought bids for the asbestos removal and building demolition beginning in 2006 and continuing through 2009 and 2011. (See attached memo)

It is not clear why JCI did not go forward after receiving those bids and remove the asbestos and hazardous materials prior to demolition. However, since we have now learned that the asbestos was not removed from some of the buildings prior to demolition, I think there is a good possibility that the PCBs, lead and mercury were not fully abated either. Accordingly, I wanted to let you know so that you can warn your contractors.

Please let me know if you have any questions.

Thanks,
Rod

Taft /

Rodney L. Michael / Partner

Taft Stettinius & Hollister LLP
One Indiana Square, Suite 3500
Indianapolis, Indiana 46204-2023
Tel: 317.713.3500 • Fax: 317.713.3699
Direct: 317.713.3479
www.taftlaw.com / rmichael@taftlaw.com

This message may contain information that is attorney-client privileged, attorney work product or otherwise confidential. If you are not an intended recipient, use and disclosure of this message are prohibited. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.